

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

WILMINGTON FINANCIAL, INC.,

Plaintiff,

v.

FIRST TEXAS HOMES, ET AL.

Defendants.

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CIVIL ACTION NO. 3:07-CV-1299-B

MEMORANDUM ORDER

Pending before the Court is Plaintiff's Motion for Reconsideration of Case Closure and Reopen as to Certain Non-Debtor Defendants (doc. 26). On September 21, 2007, Defendant Kirkpatrick & Associates filed a Notice of Stay in connection with a Chapter 7 bankruptcy filing by Richard Kirkpatrick, the sole shareholder of Kirkpatrick & Associates (doc. 23). Defendant Keith Ezell is also currently in Chapter 7 bankruptcy proceedings.<sup>1</sup> On October 2, 2007, the Court stayed the entire proceeding and administratively closed the case pending resolution of the related bankruptcy proceedings (doc. 25). The Court stated that the case could be reopened upon motion and pursuant to any action taken in the bankruptcy proceeding.

In its Motion, Plaintiff represents that it has reached a settlement agreement with Defendant First American Title Insurance Company. Separately, in a letter dated December 7, 2007, Plaintiff's counsel advised the Court and the other defendants that Plaintiff has settled with Defendant Kirkpatrick & Associates thereby removing any protection afforded to that debtor defendant.

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<sup>1</sup> Plaintiff agrees that an "automatic stay is properly in place against" Defendant Ezell. Pl. Mot. at 5.

Plaintiff's Motion is well taken, and the other named defendants have not filed any response or responded to Plaintiff's letter. The automatic stay provision of 11 U.S.C. § 362(a) does not apply to non-debtor defendants, First Texas and Jermaine Casey. *Reliant Energy Servs. v. Enron Can. Corp.*, 349 F.3d 816, 825 (5th Cir. 2003).

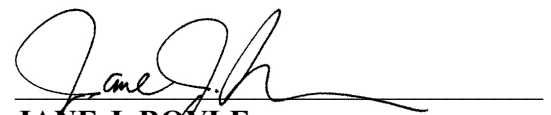
According, the Court GRANTS Plaintiff's Motion. It is, therefore, ORDERED that

Defendants First Texas and Jermaine Casey and Plaintiff shall file a Joint Status Report no later than January 11, 2008 in accordance with the Court's Status Report Order dated August 27, 2007 (doc. 17); it is further ORDERED that

Plaintiff and Defendants Kirkpatrick & Associates and First American Title Insurance Company present a final judgment or agreed order of dismissal to the Court by January 11, 2008.

**SO ORDERED.**

**SIGNED December 20, 2007**

  
**JANE J. BOYLE**  
**UNITED STATES DISTRICT JUDGE**